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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 MICHAEL FRANCIS MOYNIHAN, JR.,

9 Plaintiff,

10 v.

11 SNOHOMISH COUNTY SHERIFF'S
12 CORRECTION BUREAU,

Defendant.

Case No. C11-1353-RSM-BAT

**REPORT AND
RECOMMENDATION**

13 On August 15, 2011, plaintiff filed a complaint without paying the filing fee or seeking
14 leave to proceed in forma pauperis. Dkt. 1. Plaintiff was advised he must pay the filing fee or
15 obtain permission to proceed in forma pauperis by September 14, 2011, or his case might be
16 dismissed. Dkt. 2. In response, on August 29, 2011, plaintiff filed a letter asking the Clerk of
17 the Court to clarify the classification of his case as a habeas action. Dkt. 4.

18 The Court therefore recommends the matter be dismissed without prejudice as plaintiff has
19 neither paid the filing fee nor sought permission to proceed in forma pauperis. The Court has
20 also reviewed the complaint. It appears to allege plaintiff was jailed past his release date in
21 violation of the United States Constitution. Because such claims are brought under 42 U.S.C. §
22 1983, the docket should be corrected to reflect this cause of action.

23 In sum, the Court recommends the matter be **DISMISSED** without prejudice. Any

1 objections to this Recommendation must be filed no later than **October 11, 2011**; the matter will
2 be ready for the Court's consideration on that date. Objections shall not exceed twelve pages.
3 The failure to timely object may affect your right to appeal. A Proposed Order accompanies this
4 Report and Recommendation. The Clerk is directed to provide a copy of this Report and
5 Recommendation to plaintiff and to the Honorable Ricardo S. Martinez. The Clerk is also
6 directed to clarify the docket and note that this matter is a §1983 civil rights claim, not a habeas
7 action.

8 DATED this 20th day of September, 2011.

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11 BRIAN A. TSUCHIDA
12 United States Magistrate Judge
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